

**ASSEMBLY BILL**

**No. 964**

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**Introduced by Assembly Member Huffman**

February 18, 2011

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An act to amend Section 25507 of, and to add Section 5420 to, the Health and Safety Code, and to add Sections 5898.15, 5898.23, and 5899.1 to the Streets and Highways Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 964, as introduced, Huffman. Environmental protection: contamination.

(1) Existing law prohibits the discharge of sewage or other waste, or the effluent of treated sewage or other waste, in any manner that will result in contamination, pollution, or a nuisance. Under existing law, when the State Department of Public Health or any local health officer finds that a contamination exists, the department or officer is required to order the contamination abated, as provided.

Under existing law, an owner or reputed owner of property included within an assessment district for construction of a main trunkline or collector sewer lines may request the governing board to construct all necessary plumbing to connect his or her property to the adjoining public sewer system, the cost of the which constitutes a lien on the property.

This bill would require the State Department of Public Health, in consultation with local health officers, to adopt, by January 1, 2013, and to thereafter implement a 10-year plan for sewer upgrades, including, but not limited to, onsite septic and sewer lateral upgrades.

(2) Existing law authorizes a legislative body of a public agency, as defined, to determine that it would be convenient and advantageous to designate an area within which authorized officials and free and willing property owners may enter into contractual assessments to finance the installation of distributed generation renewable energy sources or energy or water efficiency improvements that are permanently fixed to residential, commercial, industrial, agricultural, or other real property.

This bill would expand these provisions to include contractual assessments to finance onsite sewer and septic improvements, as defined. The bill would permit onsite sewer and septic improvements to be installed to convert residential, commercial, industrial, agricultural, or other real property from an onsite septic system to community sewer collection service and to modify or replace existing onsite sewer and septic improvements. The bill would also permit these assessments to be used to replace or upgrade an existing septic system if specified requirements are met. The bill would also prohibit a public agency from permitting a property owner to participate in a contractual assessment program if the total amount of assessments and taxes on the property exceeds 5% of the property's market value, as specified. The bill would require the preliminary report issued in connection with the contractual assessment program to include criteria for determining the underwriting requirements, as well as safeguards to be used to limit the total annual property tax and assessments on the property, as specified.

(3) By requiring local public health officers to perform the duties set forth in (1) above, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares all of the  
2 following:

1 (a) The frequency and size of sewage spills of raw or partially  
2 treated sewage is often a result of aging sewer systems and a lack  
3 of maintenance on leaky and dilapidated infrastructure.

4 (b) Sewage spills also occur due to rainstorms infiltrating and  
5 overcoming poorly maintained or outdated systems.

6 (c) Sewage spills cause significant economic damage; they cause  
7 fishery closures, hurt the tourism industry, create unsafe swimming  
8 conditions, result in closed beaches, and cost ratepayers millions  
9 of dollars annually to abate and clean up.

10 (d) Sewage spills result in significant contamination of the  
11 environment. The state's waterways are part of critically important  
12 ecosystems that support large numbers of birds, fish, and other  
13 wildlife, including, but not limited to, many threatened and  
14 endangered species. Sewage contamination threatens these  
15 ecosystems when it escapes public sewer systems.

16 (e) Public agencies are often challenged with the high cost of  
17 maintenance and repair of sewer lines, and often have limited  
18 authority over private sewer lines that feed into public sewer  
19 systems.

20 (f) Establishment of a 10-year plan to maintain and improve  
21 public and private sewer infrastructure will help prevent sewage  
22 spills caused by storm water intrusion into sewer collection  
23 systems.

24 SEC. 2. Section 5420 is added to the Health and Safety Code,  
25 to read:

26 5420. (a) The department, in consultation with local health  
27 officers, shall adopt, by January 1, 2013, and shall thereafter  
28 implement a 10-year plan for sewer upgrades, including, but not  
29 limited to, onsite septic and sewer lateral upgrades.

30 (b) The plan shall include, but need not be limited to, all of the  
31 following:

32 (1) Stated goals for the prevention and elimination of sewage  
33 spills caused by storm water intrusion.

34 (2) Strategies for public outreach to private property owners to  
35 make repairs to, or replacement of, as necessary, private sewers  
36 laterals for the purpose of prevention or abatement of sewage  
37 contamination. Outreach shall include, but shall not be limited to,  
38 providing information about financing options. The information  
39 shall address the possibility of loans or voluntary assessments  
40 between the property owners and the agency.

1 (3) Plans for managing and accounting for funding made  
2 available to property owners for the purposes of lateral repairs or  
3 replacements.

4 (4) Commencing January 1, 2014, the department, in  
5 consultation with local health officers, shall report to the California  
6 Regional Water Quality Control Board, and to the regional boards,  
7 on the progress of developing the 10-year plan.

8 SEC. 3. Section 25507 of the Health and Safety Code is  
9 amended to read:

10 25507. (a) Except as provided in subdivision ~~(b)~~ (c), the  
11 handler or any employee, authorized representative, agent, or  
12 designee of a handler shall, upon discovery, immediately report  
13 any release or threatened release of a hazardous material to the  
14 administering agency, and to the agency, in accordance with the  
15 regulations adopted pursuant to Section 25503. Each handler and  
16 any employee, authorized representative, agent, or designee of a  
17 handler shall provide all state, city, or county fire or public health  
18 or safety personnel and emergency rescue personnel with access  
19 to the handler's facilities.

20 (b) *Any handler or employee, authorized representative, agent,*  
21 *or designee of a handler that provides an initial immediate verbal*  
22 *report of a release or threatened release pursuant to subdivision*  
23 *(a), shall provide an immediate followup notification to the*  
24 *administering agency and to the office if any of the following*  
25 *conditions occur as a result of the release or threatened release*  
26 *that were not included in the prior notifications:*

27 (1) *The specific name or identity of the hazardous material*  
28 *released.*

29 (2) *The quantity of release is determined, or that the quantity*  
30 *has increased from prior reports by more than 100 percent.*

31 (3) *An injury to one or more persons has been caused and*  
32 *requires immediate attention.*

33 (4) *A death of one or more persons has been caused.*

34 (5) *A public safety action has been ordered by emergency rescue*  
35 *personnel, including, but not limited to, evacuation or sheltering*  
36 *in place.*

37 (6) *Environmental contamination that requires the deployment*  
38 *of response equipment to contain or limit the spread of the*  
39 *hazardous material.*

40 ~~(b) Subdivision (a)~~

1     (c) *This section* does not apply to any person engaged in the  
2 transportation of a hazardous material on a highway which is  
3 subject to, and in compliance with, the requirements of Sections  
4 2453 and 23112.5 of the Vehicle Code.

5     SEC. 4. Section 5898.15 is added to the Streets and Highways  
6 Code, to read:

7     5898.15. (a) A public agency shall not permit a property owner  
8 to participate in any program established pursuant to this chapter  
9 if the owner's participation would result in the total amount of any  
10 annual property taxes and assessments exceeding 5 percent of the  
11 property's market value, as determined at the time of approval of  
12 the owner's contractual assessment.

13     (b) This chapter shall not be construed to void or otherwise  
14 release a property owner from the contractual obligations incurred  
15 by a contractual assessment on a property, particularly in the event  
16 that the total amount of annual property taxes and assessments  
17 exceeds 5 percent of a property's market value after the property  
18 owner has entered into a contractual assessment pursuant to this  
19 chapter.

20     SEC. 5. Section 5898.23 is added to the Streets and Highways  
21 Code, to read:

22     5898.23. For purposes of the report required pursuant to Section  
23 5898.22, the statement of public agency policies required pursuant  
24 to subdivision (c) of that section shall also include a brief  
25 description of criteria for determining the underwriting  
26 requirements, as well as safeguards that will be used to ensure that  
27 the total annual property tax and assessments on the property will  
28 not exceed 5 percent of the property's market value, as determined  
29 at the time of approval for the owner's contractual assessment.

30     SEC. 6. Section 5899.1 is added to the Streets and Highways  
31 Code, to read:

32     5899.1. (a) The Legislature finds and declares all of the  
33 following:

34     (1) It is the intent of the Legislature to address water quality  
35 needs throughout California by permitting voluntary individual  
36 sewer and septic improvements that provide a public benefit. The  
37 Legislature further intends that this chapter should be used to  
38 finance the installation of onsite sewer and septic improvements  
39 that are permanently fixed to residential, commercial, industrial,  
40 agricultural, or other real property, for the installation of

1 improvements to, and replacements of, existing onsite sewer  
2 facilities served by a community sewer system, a septic system,  
3 and conversion of the property from a septic system to community  
4 sewer collection and treatment service.

5 (2) To improve the quality of surface water and groundwater,  
6 necessary efforts include the promotion of onsite sewer and septic  
7 improvements that provide a public benefit in water quality  
8 protection.

9 (3) The up-front cost of converting residential, commercial,  
10 industrial, agricultural, or other real property from an onsite septic  
11 system to sewer collection service, updating an existing septic  
12 system, or making needed improvements to, or replacements of,  
13 existing sewer laterals, prevents many property owners from  
14 making those improvements. To make those improvements more  
15 affordable and to promote the installation of those improvements,  
16 it is necessary to authorize an alternative procedure for authorizing  
17 assessments to finance the cost of onsite sewer and septic  
18 improvements.

19 (4) The Legislature declares that a public purpose will be served  
20 by a voluntary contractual assessment program that provides the  
21 legislative body of a public agency with the authority to finance  
22 the installation of onsite sewer and septic improvements that are  
23 permanently fixed to residential, commercial, industrial,  
24 agricultural, or other real property.

25 (b) For purposes of this section, the following terms shall have  
26 the following meanings:

27 (1) "Onsite sewer and septic improvements" means permanent  
28 sewer and septic improvements fixed to real property that convey  
29 sewage from the property's interior plumbing to the point of  
30 discharge into the public agency's sewer facilities, and may  
31 include, but is not limited to, pipes, pumps, other equipment, sewer  
32 laterals, septic system abandonment, or one-time charges for  
33 sewage treatment capacity associated with the improvements.  
34 Onsite sewer and septic improvements may be installed for the  
35 following purposes:

36 (A) To convert residential, commercial, industrial, agricultural,  
37 or other real property from an onsite septic system to community  
38 sewer collection service.

39 (B) To modify or replace existing onsite sewer improvements.

1 (2) "Onsite sewer and septic improvements" also means the  
2 replacement of, or upgrade of, an existing septic system if all of  
3 the following requirements are met:

4 (A) The public agency determines that the building served by  
5 the septic system is not within the range of service of an existing  
6 or planned public sewer.

7 (B) The replacement or upgrade of the existing septic system  
8 satisfies all local requirements regarding pretreatment, effluent  
9 meters or other devices to control solids releases, and emergency  
10 capacity and malfunction alarming devices.

11 (3) For the purpose of financing the installation of onsite sewer  
12 and septic improvements, "public agency" means a city, county,  
13 city and county, municipal utility district, community services  
14 district, sanitary district, sanitation district, or water district, as  
15 defined in Section 20200 of the Water Code. The definition of  
16 "city" in Section 5005 shall not apply to this paragraph.

17 (c) The legislative body of any public agency may designate an  
18 area, in the manner provided pursuant to Section 5898.20, within  
19 which authorized public agency officials and property owners may  
20 enter into voluntary contractual assessments to finance the  
21 installation of onsite sewer and septic improvements that are  
22 permanently fixed to real property pursuant to this chapter.

23 (d) For purposes of establishing a voluntary contractual  
24 assessment program relating to onsite sewer and septic  
25 improvements, the legislative body shall make the determinations  
26 required pursuant to Section 5898.20 by adopting a resolution  
27 indicating its intention to do so. The resolution of intention shall  
28 identify the kinds of onsite sewer and septic improvements that  
29 may be financed and shall include all of the information that is  
30 required pursuant to subdivision (b) of Section 5898.20, including,  
31 but not limited to, directing an appropriate public agency official  
32 to prepare a report pursuant to Section 5898.22.

33 (e) For purposes of the report required pursuant to Section  
34 5898.22, relating to a voluntary contractual assessment program  
35 for onsite sewer and septic improvements, the designated public  
36 agency official shall satisfy the requirements of paragraph (1) of  
37 subdivision (c) of Section 5898.22 by identifying the types of  
38 onsite sewer and septic improvements that may be financed through  
39 the use of contractual assessments.

1 (f) Notwithstanding any other provision of this chapter, upon  
2 the written consent of an authorized public agency official, the  
3 proposed arrangements for financing the program pertaining to  
4 the installation of onsite sewer and septic improvements that are  
5 permanently fixed to real property may authorize the property  
6 owner to purchase directly the related equipment and materials for  
7 the installation of onsite sewer and septic improvements and to  
8 contract directly for the installation of onsite sewer and septic  
9 improvements that are permanently fixed to the property owner's  
10 residential, commercial, industrial, agricultural, or other real  
11 property.

12 SEC. 7. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.